APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,265	10/15/2003	Seong Moon	2013P104	7213

8791   7590   10/15/2007

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ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
10/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2 and 6-9* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2, 6-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Arguments

1.   Applicant's arguments filed on 7/31/2007 have been fully considered but they are

not persuasive. Applicant argued on page 6 that Johansson did not disclosed a PDP

context activation procedure in paragraph 43, lines 1-15, paragraph 1-6, and paragraph

1-19, however examiner meant to cite paragraph 43, lines 1-15, paragraph 44 1-6, and

paragraph 45 lines 1-19. Although it was an error in the first place, however upon

reading paragraph 0044, which read as "In step 1 the push server 50 connects to the

SMS-C 30....", its obvious to follow the step 2 disclosed in the following paragraph 44,

lines 1-6, and then to step 3, which is paragraph 45, lines 1-19.

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bjelland et al. (Pub No.: 2002/0006780), in view of background of Widegren et al. (Pub

No.: 2002/0036983), and Johansson (Pub No.: 2001/0015977).

For claim 2, Bjelland et al. disclosed the methods of for communicating in a

packet switched (PS) core network (CN) supporting several quality of services (QoS)

levels, including at least a serving node (SGSN), a gateway node (GGSN), a home

location register (HLR), a short message service gateway and interworking unit (SMS-

GMSC, SMS-IWMSC), charging gateway functionality (CGF), and a public data network

(PDN) (see Fig. 1); the core network being adapted for carrying out at least a mobile

initiated packet data protocol (PDP) context activation in which a PDP address (see

paragraph 0015, lines 1-6), is assigned to a mobile station and in which a given quality

of service is assigned through the network in a communication session between the

mobile station and the application processor in question, as recited in claim 1. However,

Bjelland et al. did not disclose the method of a PDN comprising an application server

(AS); initiating a context activation by the application server in which a requested QoS

(Qulity of Service) is communicated to the mobile station establishing a communication

session associated with the requested QoS between the mobile station and the

application server using the SGSN and GGSN within the core network. Also did not

teach whereby the application server sends by a short message service (SMS)

message a requested QoS class directly to the mobile station (MS), which in turn starts

a PDP context activation procedure. Widegren et al. from the same or similar fields of

endeavor teaches the methods of a PDN comprising an application server (AS) (see

paragraph 0005, lines 5-7, and see Fig. 1); initiating a context activation by the

application server in which a requested QoS (Qulity of Service) is communicated to the

mobile station (see paragraph 0097, lines 5-10); and establishing a communication

session associated with the requested QoS between the mobile station and the

application server using the SGSN and GGSN within the core network (see paragraph

0046, lines 1-5 and see paragraph 0072, lines 1-4), as recited in claim 1. The

application server (AS) communicates the requested QoS class to the GGSN (see

paragraph 0142, lines 4-13), as recited in claim 3. The application server communicates

the requested QoS class to the GGSN according in a push request (see paragraph

0142, lines 4-13), as recited in claim 4. The application server (AS) communicates the

requested QoS class to the GGSN directly in the sent PDU (see paragraph 0056, lines

1-8), as recited in claim 5. Thus, it would have been obvious to the person of ordinary

skill in the art at the time of the invention to use the methods as taught by Widegren et

al. in the network of Bjelland et al. The method as taught by Widegren et al. can be

modified/implemented into the communication network of Bjelland et al. by adding an

application server in the PDN. The motivation for using the method as taught by

Widegren et al. in the network of Bjelland et al. being that the application server can

provide IP based application software controlled by the end-to-end signals. The

motivation also for using added application server is to control the QoS implicitly.

Johansson from the same or similar fields of endeavor teaches the method of whereby

the application server sends by a short message service (SMS) message a requested

QoS class directly to the mobile station (MS), which in turn starts a PDP context

activation procedure (see paragraph 0043, lines 1-15, see paragraph 0044, lines 1-6, and see paragraph 0045, lines 1-19). As revealed in the reference, the server 50 submits a request in the SMS message format to the MSISDN (Mobile Station) over a transport protocol, such as TCP/IP or X25. The QoS can be interpreted as the protocols between the TCP/IP and X25. Although, the reference did not reveal the PDP context activation procedure that is the same as disclosed in the specification, however in the reference, the SMS message includes an activation code, that if the activation code is present, the server will extract the IP address, port number and originator ID code and finally the TCP/IP connection is established. In this case, we can interpret it as a PDP context activation procedure. Thus, it would have been obvious to the person or ordinary skill in the art at the time of the invention to use the method as taught by Johansson in the network of Bjelland et al. and Wdiegren et al. The motivation for using the method as taught by Johansson in the network of Bjelland et al. and Wdiegren et al. being that the server can establish either circuit or packet switching connection based on the mobile user.

Regarding to claim 9, Bjelland et al. and Wdiegren et al. disclosed all the subject matter of the claimed invention with the exception of the SMS message containing the requested QoS is transmitted from the application server to the mobile station using the SMS-GMSC and SMS-IWMSC within the core network. Johansson also teaches the method of the SMS message containing the requested QoS is transmitted from the application server to the mobile station using the SMS-GMSC and SMS-IWMSC within the core network (see paragraph 0043, lines 1-15, see paragraph 1-6, and see

paragraph 1-19). As revealed in the reference, the server 50 submits a request in the

SMS message format to the MSISDN (Mobile Station) over a transport protocol, such as

TCP/IP or X25. The QoS can be interpreted as the protocols between the TCP/IP and

X25. Although, the reference did not reveal the PDP context activation procedure,

however in the reference, the SMS message includes an activation code, that if the

activation code is present, the server will extract the IP address, port number and

originator ID code and finally the TCP/IP connection is established. In this case, we can

interpret it as a PDP context activation procedure. Thus, it would have been obvious to

the person or ordinary skill in the art at the time of the invention to use the method as

taught by Johansson in the network of Bjelland et al. and Wdiegren et al. The motivation

for using the method as taught by Johansson in the network of Bjelland et al. and

Wdiegren et al. being that the server can establish either circuit or packet switching

connection based on the mobile user.

3.   Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bjelland et al. (Pub No.: 2002/0006780), in view of background of Widegren et al. (Pub

No.: 2002/0036983), and Johansson (Pub No.: 2001/0015977), as applied to claim 2

above, and further in view of Muhonen et al. (Pat No.: 6956832).

For claim 6, Bjelland et al., Widegren et al., and Johansson disclosed all the

subject matter of the claimed invention with the exception of the SMS message causes

the mobile station to issue a PDP activate context request with the requested QoS

class. Muhonen et al. from the same or similar fields of endeavor teaches the method of

the SMS message causes the mobile station to issue a PDP activate context request

with the requested QoS class (see column 7, lines 32-45 and see fig. 2). In the

reference, the multimedia message service center (MMSC) requested multimedia

message context activation by having mobile station MS send a PDP-context request to

the SGSN. The requesting message contains in the data format that supports the MS,

these formats are such as image, text, and speech can be considered as a type of QoS

class. Thus, it would have been obvious to the person of ordinary skilled in the art at the

time of the invention to use the method as taught by Muhonen et al. in the network of

Bjelland et al. and Wdiegren et al. and Johansson. The motivation for using the method

as taught by Muhonen et al. in the network of Bjelland et al. and Wdiegren et al. and

Johansson being that multimedia message includes text, image, or voice, and the sizes

of these format have no restriction during transmission.

Regarding to claim 7, Bjelland et al., Widegren et al., and Johansson disclosed

all the subject matter of the claimed invention with the exception of whereby the SMS

message causes the mobile station to issue a modify PDP context request with the

requested QoS class. Muhonen et al. from the same or similar fields of endeavor

teaches the method of the SMS message causes the mobile station to issue a modify

PDP context request with the requested QoS class (see column 7, lines 32-45, and see

column 8, lines 27-45). The requesting message contains in the data format that

supports the MS, these formats are such as image, text, and speech can be considered

as a type of QoS class. A PDP-context update request, in this case is interpreted as a modify PDP context request. Thus, it would have been obvious to the person of ordinary skilled in the art at the time of the invention to use the method as taught by Muhonen et al. in the network of Bjelland et al. and Wdiegren et al. and Johansson. The motivation for using the method as taught by Muhonen et al. in the network of Bjelland et al. and Wdiegren et al. and Johansson being that multimedia message includes text, image, or voice, and the sizes of these format have no restriction during transmission.

Regarding to claim 8, Bjelland et al., Widegren et al., and Johansson disclosed all the subject matter of the claimed invention with the exception of whereby the SMS message causes the mobile station to issue an activate secondary PDP context request with the requested QoS class. Muhonen et al. from the same or similar fields of endeavor teaches the method of the SMS message causes the mobile station to issue an activate secondary PDP context request with the requested QoS class (see column 7, lines 32-45, and see column 8, lines 27-45). The requesting message contains in the data format that supports the MS, these formats are such as image, text, and speech can be considered as a type of QoS class. A PDP-context update request, in this case is interpreted as a secondary PDP context request. Thus, it would have been obvious to the person of ordinary skilled in the art at the time of the invention to use the method as taught by Muhonen et al. in the network of Bjelland et al. and Wdiegren et al. and Johansson. The motivation for using the method as taught by Muhonen et al. in the network of Bjelland et al. and Wdiegren et al. and Johansson being that multimedia

message includes text, image, or voice, and the sizes of these format have no restriction during transmission.

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE' MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kan Yuen whose telephone number is 571-270-1413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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